

**BONNER COUNTY PLANNING and ZONING COMMISSION  
PUBLIC HEARING MINUTES  
DECEMBER 17, 2020**

**PLEDGE OF ALLEGIANCE**

**CALL TO ORDER:** Chair Bailey called the Bonner County Planning and Zoning Commission hearing to order at 5:34 p.m. in the 1<sup>st</sup> Floor Conference Room, of the Bonner County Administration Building, 1500 Highway 2, Sandpoint, Idaho, via Zoom webinar, and YouTube live streaming.

**PRESENT:** Commissioners Chair Brian Bailey; Vice Chair Matt Linscott; Don Davis; Taylor Bradish; Dave Frankenbach; Sheryl Reeve; and Suzanne Glasoe

**ABSENT:** None

**ALSO PRESENT:** Planning Director Milton Ollerton; Assistant Planning Director Josh Pilch; Senior Planner Amanda DeLima; Planner II Tessa Vogel; Administrative Assistant III Elizabeth Jensen; and Administrative Assistant III Jenna Mickelson

**CHANGE IN AGENDA:**

**File S0003-20 – Converted to Administrative File – Preliminary Plat Subdivision – The Idaho Club North Lake Replat – Valliant Idaho, LLC:** Staff informed Commissioners that the file has been converted to an Administrative Plat Subdivision.

Marty Taylor, James A. Sewel & Associates elaborated on some questions that the Commissioners had asked at the previous hearing.

**CONSENT AGENDA:**

**APPROVAL OF MINUTES:** The Chair requested the Commissioners declare if they had any corrections or changes to the approval of minutes as written for: December 3, 2020. Hearing no changes or objections, the Chair declared the minutes approved as written.

**PUBLIC HEARINGS:**

**CONDITIONAL USE PERMIT**

**CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE:** The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings.

**File CUP0006-20 – Conditional Use Permit – The Idaho North Lake PUD- Valliant Idaho, LLC** is requesting a conditional use permit for a large-scale, mixed

use, planned unit development (PUD) for five (5) residential lots, one (1) utility lot, one (1) recreational lot, one (1) open space lot of 2.89 acres, one (1) access lot, and one (1) submerged lot. This large-scale, mixed use, PUD is proposed to consist of commercial, residential, and recreational uses. The property is zoned Recreation. The project is located off N. Park Rd. and Highway 200 in Section 16/17, Township 57 North, Range 1 East, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

**STAFF PRESENTATION:** Planner II Tessa Vogel presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

**APPLICANT PRESENTATION:** Project Representative Marty Taylor, James A. Sewel & Associates, stated this project was formally approved in 2005 for a PUD process but went away due to the economy. He gave a brief summary of the project stating the plan was devised to create the exact amount of open space to coincide with the density request. Mr. Taylor addressed some agency comments. Mr. Taylor asked for review of Condition A-10 as it is redundant and requested that Conditions B-1, B-2, and B-3 not be included in the PUD process.

**PUBLIC/AGENCY TESTIMONY:** The following individuals spoke on the record: Co-Chief Steward Eigler and Dan Ward

**APPLICANT REBUTTAL:** Project Representative Marty Taylor, James A. Sewel & Associates, addressed public comments focusing on the easement that will be on the utility lot and will not impede access to the property to the North. He also stated that the leach field meets all setback requirements.

Staff clarification on conditions B1 through B3 and why they are there.

**COMMISSION DELIBERATION:** The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

**MOTION TO RECOMMEND APPROVAL:** Commissioner Bradish moved to recommend approval of this project FILE CUP0006-20 a conditional use permit for a large-scale mixed use planned unit development, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Bradish further moved to recommend adoption of the following findings of fact and conclusions of law as amended with the removal of Condition A-10. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Linscott seconded the motion.

**VOTED** upon and the Chair declared the motion carried, 4-2. Commissioners Linscott, Davis, Bradshaw and Frandenbach voted in favor of the motion. Commissioner Reeve and Glasoe voted in opposition.

**Background:**

**A. Site data:**

- Mixed Use
- Platted and Unplatted
- Size: 24.4 gross acre/8.94 net acres
- Zone: Recreation
- Land Use: Resort Community and Rural Residential

**B. Access:**

- North Park Road
  - i. Road Class: Local
  - ii. County Maintained: No
  - iii. Privately Owned
- State Highway 200
  - i. Road Class: Highway
  - ii. County Maintained: No
  - iii. Idaho Transportation Department Owned

**C. Environmental factors:**

- Site does contain mapped slopes. (USGS)
- Site does contain mapped wetlands. (USFWS)
- Site does contain a river/stream/frontage on lake
- Per Bonner County CFM and Planner Jason Johnson: *RP57N01E166160A – This parcel is within SFHA Zone X and Zone AE, per FIRM panel 16017C0775E, effective date 11/18/2009. The vast majority of this parcel is within SFHA Zone AE. RP031740000020A – This parcel is within SFHA Zone AE, per FIRM panel 160170775E, effective date 11/18/2009. RP031740000010A – This parcel is within SFHA Zone AE, per FIRM panel 1617C0775E, effective date 11/18/2009.*

**D. Services:**

- Water: Proposed public water system
- Sewage: Proposed community leach field
- Fire: Sam Owen Fire District
- Power: Avista Utilities

**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community & Rural Residential	Recreation	Vacant
North	Resort Community	Rural-5 & Rural-10	US Army Corps of Engineers land and rural residence (RP57N01E165741A)
East	Resort Community & Rural Residential	Rural-5	US Army Corps of Engineers Trestle Creek Recreation Area

Compass	Comp Plan	Zoning	Current Land Use & Density
South	Resort Community & Rural Residential	Rural-5, Recreation & Rural Service Center	Railroad and Highway 200 right-of-ways
West	Lake Pend Oreille		

**F. Standards review**

BCRC 12-223 specifies that the Commission shall review the particular facts and circumstances of each proposal. To grant a conditional use permit, the Commission must find there is adequate evidence showing the proposal is in accord with the general and specific objectives of the comprehensive plan and Title 12 and the proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property

- BCRC 12-2.2 et seq., Conditional Use Permits
  - A conditional use permit is required for a planned until development and preliminary plat.
- BCRC 12-251(C): Planned Unit Development Classification and Minimums; A "large scale mixed use" PUD consisting of commercial, industrial, residential or recreational uses and having a minimum gross land area of twenty (20) acres.
  - The proposed PUD has a total of 24.4 gross acres and will include commercial, residential, and recreational uses.
- BCRC 12-252(B): Uses Permitted within Planned Unit Developments; Limited commercial and related recreational activities and facilities which are designed primarily to accommodate the needs of residents within a "mixed use" PUD described in section 12-251 of this subchapter may be permitted in any district, except for Industrial. Commercial recreation areas, such as ski resorts, golf courses or marinas, where permitted or conditionally permitted in applicable districts, may include related commercial uses to accommodate the general public as well as residents within the PUD when included and approved as part of the PUD development plan.
  - The site is zoned Recreation and the zone's allowed commercial (boat storage and repair services), recreational (community dock and pavilion), and residential (single family residences) uses proposed are all included within the PUD.
- BCRC 12-256: Design Standards for Planned Unit Developments
  - A. Common Open Space – 10% of total gross acreage required
    - 11.84% provided and exclusive of all road and utilities that would otherwise detract therefrom, and consists of critical White-tailed deer habitat and riparian habitat.
  - B. Owner's Association – A homeowner's association and/or corporation ownership required
    - A homeowners' association will be formed.
  - C. Covenants, Article of Incorporation – Recorded with the final plat of any PUD subdivision or final development plans required
    - The homeowners' association to be formed to enforce private road system maintenance, stormwater management and erosion

control, water and sewer systems, and open space/common area management.

- o **D. Development Density** – *The unit density of a PUD containing residential uses shall not exceed the density of the zone district in which it is located, except for density bonuses.*
  - PUDs provide an opportunity to “density average” lot sizes and as such, this project includes an average lot density of one unit per 2 acres where a density of one lot per 2 acres is allowable when including the allowable density bonus.
- o **E. Public amenities that can be provided to obtain a density bonus.**
  - A density bonus is proposed based on additional open space, not public amenities.
  - 11.84 percent open space is provided where 10 percent is required (2.89 acres of open space ÷ 24.4 gross acres = 11.84 percent open space) which allows for a density bonus equal to the percentage of open space authorizing a unit density of 5 (5 units x 0.1184 open space = 0.53 density bonus. 4.47 units + 0.53 bonus units = 5 total units.). Five (5) residential units are proposed.
- o **F. Requirements for Public Amenities** – *n/a as none are proposed*
- o **G. Design Standards** – *The PUD will include the following variations from design standards of Title 12*
  - **BCRC 12-333, note 33:** – *Maximum square footage for ministorage, boat storage, and rental warehouse facilities on a single lot or parcel shall be 10,000 square feet for the rural service center and recreation district required.*
    - Per the application – The project involves two lots and one parcel. In lieu of developing one, 10,000 SF building on each property, three buildings not to exceed a combined total of 30,000 SF will be developed on the utility lot. Clustering the buildings on this lot provides greater efficiency, while protecting Trestle Creek and Lake Pend Oreille by separating these uses from these bodies of water.
  - **BCRC 12-412:** *2 acre lot size minimum when served by “urban water.”*
    - Per the application – The proposed residential lots contain less than the 2 acre conventional lot size minimum in the Recreation zone where “urban water” is provided. However, PUDs provide an opportunity to “density average” lot sizes. As such, inclusive of the allowable density bonus, this project includes an average density of one lot per 2 acres. Further, because of the limited number of lots proposed, in lieu of constructing a hard surfaced, 28’ wide “standard local” public road, a hard surfaced, 22’ wide “low volume local” private road is proposed.
  - **BCRC 12-412:** *Lot coverage requiring 35%*

- Per the application – In order to maintain clustered housing and provide maximum open space, 70 percent (70%) lot coverage is proposed.
- **BCRC 12-412:** *Minimum rear yard setback required is 5’.*
  - Per the application – Because the rear lots lines of the proposed residential and recreational lots border open space, a zero rear yard setback is proposed. A 25’ front yard and 5’ side yard setbacks will be maintained for these lots.
- **BCRC 12-432, note 5:** *Minimum off-street parking requirements for community docks and marinas is 0.5 space/boat slip of which 25 percent of parking spaces arranged as tandem spaces not less than 10’ by 40’ is required.*
  - Per the application - Users of the dock facilities own property at The Idaho Club and will access the facility primarily by boat. Therefore, upland parking is unnecessary for dock users.
- **BCRC 12-432, note 3:** *Minimum off-street parking requirements for assembly buildings is 1 space per 100 gross square feet of floor area within 500’ of principal use required.*
  - Per the application – Because most dock users will access the pavilion by boat, the conventional “assembly building” parking standard requiring 50 spaces for a 5,000 SF pavilion is not applicable. In lieu thereof, 35 spaces are provided, with about 7 of those spaces being further than 500’ from the pavilion.
- **BCRC 12-621:** *All lots that are 100’ or less in width shall be designed so that the angle of intersection of the side lot lines with the fronting road is between 85 degrees and 95 degrees for a distance of not less than 50’ from the point of intersection.*
  - Per the application – Angles of intersection of ±95 degrees to ±113 degrees are proposed. However, each lot maintains angles of intersection adequate to accommodate 90 degree driveway entrances off of the proposed access road.
- **BCRC 12-624(B):** *Road networks shall be designed and constructed to private road standards set forth in appendix A of this title, except as otherwise noted herein. Road networks shall be designed to provide for a continuous transportation system to adjacent properties, where topographical conditions warrant.*
  - In lieu of a 28’ wide “standard local” paved public road, North Park Road will be improved to “low volume local” private road standards consisting of a 20’ wide travelway and a 22’ wide paved roadway developed within a minimum 30’ wide easement where located on the applicant’s property. Adjacent to and outside of the railroad right-of-way, a turnout on the east and west side

- of the railroad crossing will be constructed to a minimum width of 26' and a minimum length of 40'.
  - **BCRC 12-624(D):** *All proposed lots less than five (5) acres gross shall have direct frontage on, and direct access to, a public right of way. Cluster lots less than five (5) acres gross in a conservation subdivision within the rural, agricultural/forestry and forestry districts are exempt from this requirement. Right of way offered for dedication in any zoning district shall be developed with a road constructed to the standards set forth in title 2 of this code. Such road may be maintained privately or by a public highway agency. Exceptions to the direct frontage and access requirements to allow for private frontage or interior roads may be granted in the commercial, industrial, or rural service center districts provided such access meets the applicable private road standards of this title.*
    - Per the application – Each lot will directly front on, and will directly access, a private easement versus public right-of-way. This easement will be developed with a hard surfaced "low volume private road" accessing the recreational and residential lots.
  - **BCRC 12-713:** *Maximum "impervious surface" allowed within the "shore land" areas shall be 35%.*
    - Per the application – A ±60' wide vegetated, open space buffer is included between the recreational and residential lots and Lake Pend Oreille. This buffer will serve to preserve both the quality and quantity of Bonner County water resources (BCRC 12-701(a)), and to reduce erosion and sedimentation into waterways (BCRC 12-701(b)). Accordingly, an impervious surface of 70% is proposed.
  - **BCRC 12-733(B):** *40' setback to wetlands required.*
    - Per the application – The site has been approved for shoreline improvements, including wetland fill (USACOE Permit NWW-2007-01218). Accordingly, a zero wetland setback is proposed.
- **BCRC 12-332: Residential Use Table (single family dwellings)**
    - o Single family dwellings are a permitted use within the Recreation district.
  - **BCRC 12-333, note 17:** *Sufficient land area is required to accommodate the proposed use, and the use and any appurtenant structures shall be so arranged on the land as to minimize any adverse effects on surrounding properties. The use shall not create particular hazards to adjacent properties.*
    - o The boat storage and repair services are located on a two acre parcel abutting railroad right-of-way to the west and state highway right-of-way to the east providing sufficient land area arranged to minimize any effect on adjoiners.
  - **BCRC 12-333, note 33:** See requirement and variation previously noted.
  - **BCRC 12-335, note 5:** *Sufficient land area is required to accommodate the proposed use, and the use and any appurtenant structures shall be so arranged on the land as to minimize any adverse effects on surrounding properties. The use shall not create particular hazards to adjacent properties.*
    - o The proposed pavilion will contain restroom and picnicking facilities for users of the community dock. The proposed open air, roofed structure will allow users to gather while enjoying the lake. Upland parking has been provided for participants that may drive versus boat to the facility.
  - **BCRC 12-335, note 6:** *Specified conditions with respect to emissions of noise, light, glare, smoke, odor, dust, particulate matter, vibrations or hours of operation may be prescribed differently from those required in a given district, as to be compatible with other applicable State and Federal standards.*
    - o The project as designed and the pavilion location abuts vacant government lands (RP57N01E65700A). Consequently, no impact is anticipated.
  - **BCRC 12-335, note 7:** *A traffic plan is required describing, at minimum, the method of ingress and egress to the site, traffic circulation within the site, and on premises parking and loading/launching areas.*
    - o The project is accessed by a private railroad crossing (USDOT Crossing Inventory, Crossing No. 091184B; Montana Rail Link). North Park Road will be improved to "low volume local" private road standards consisting of a 20' wide travelway and a 22' wide roadway developed within a minimum 30' wide easement where located on the applicant's property. Adjacent to and outside of the railroad right-of-way, a turnout on the east and west side of the railroad crossing will be constructed to a minimum width of 26' and a minimum length of 40'.
    - o A sufficient turnaround area has been designed to accommodate boat launching and trailer maneuvering at the approved boat ramp (IDL Permit L-96-S-602B and USACOE Permit NWW-2007-01218).
  - **BCRC 12-412, note 4:** *Minimum lot size where "urban water" is available shall be 2 acres but, clustering lots via a conservation subdivision is encouraged to allow for the opportunity to develop at greater density if and when urban services become available.*
    - o See requirement and variation from this standard previously states.
    - o Per BCRC 12-636(A) there is no minimum lot size for cluster lots, provided the subdivision meets the density requirements specified in the title. However, cluster lots shall be sized sufficiently to meet applicable setbacks and other requirements in this title, unless otherwise noted herein.
  - **BCRC 12-412:** *Maximum residential density shall be 1 dwelling unit per minimum lot size.*

- o Per note 2 of BCRC 12-412, *density may be increased via conservation subdivision bonus provisions set forth in section 12-637 in this title.*
  - A density bonus to allow for 5 dwelling units is proposed.
- o Per note 6 of BCRC 12-412, *dwelling units, not to exceed a total of 3 dwelling units, may be permitted on a single parcel of land; providing that the parcel is large enough to comply with the density requirements of the zone. Additional dwelling units may be allowed on a parcel in a conservation subdivision, provided the subdivision complies with the density requirements of the district and where the dwelling units are authorized on the plat.*
  - 5 residential dwelling units are proposed – one for each of the proposed residential lots.

- **BCRC 12-412: Setback Requirements** – see variation to rear setback previously stated.

Required	Proposed
Front: 25'	Front: 25'
Sides: 5'	Sides: 5'
Rear: 5'	Rear: 0'
Waterfront: 40'	Waterfront: non proposed
Wetlands: 40'	Wetlands: 0'

- **BCRC 12-421: Performance Standards for All Uses – Effects from noise, light glare, odors, fumes or vibrations.**
  - o The property was previously developed with a high density, commercial recreational facility consisting of an RV and mobile home park. The proposed use is limited to five single family home sites, one recreational lot, one utility lot, one access lot and one open space lot. Therefore, there will be no effects on adjoining properties from noise, light glare, odors, fumes or vibrations.
- **BCRC 12-432: Minimum Off Street Parking Requirements**

<b>Residential Uses – Residential, single-family</b>	
Required	Proposed
2 spaces/dwelling unit On the same lot as the dwelling unit	The 25' front yard setback will be met, leaving room for 2 spaces/lot which will have 1 dwelling unit each.
<b>Public Uses – Assembly buildings (pavilion)</b>	
Required	Proposed
1 space/100 gross square feet of floor area Within 500' of the principle use	Variation (see above) - 35 spaces are provided, with about 7 of those spaces being further than 500' from the pavilion.
<b>Public Uses – Community docks and marinas</b>	
Required	Proposed
0.5 space/boat slip 25% of parking spaces shall be arranged as tandem spaces not less than 10' be 40'	Variation (see above) - Users of the dock facilities own property at The Idaho Club and will access the facility primarily by boat. Therefore, upland parking is unnecessary for dock users.

- **BCRC 12-4.5 et seq.: Design Standards**

- o The design standard plans for the commercial buildings for the boat storage and repair services and the public building for the pavilion were not submitted at the time of this application and will be required to be submitted to the Bonner County Planning Department for review prior to the issuance of this file.

- **BCRC 12-4.6 et seq.: Landscaping and Screening Standards**

- o The landscaping and screening plan(s) were not submitted at the time of this application and will be required to be submitted to the Bonner County Planning Department for review prior to the issuance of this file.

- **BCRC 12-486(A): Standards for Rental Warehouses, Ministorage, Boat Storage; uses are prohibited within one hundred feet (100') of a state highway or designated arterial in the commercial or rural service center district.**

- o Not applicable as the project is within the Recreation district.

- **BCRC 12-486(B-1): Standards for Rental Warehouses, Ministorage, Boat Storage**

- o The specific standards for the proposed boat storage, as required for BCRC 12-486 (B-1) was not submitted at the time of this application and will be required to be submitted to the Bonner County Planning Department for review prior to the issuance of this file.

- **BCRC 12-621: Lot Design; All proposed lots which are three hundred feet (300') or less in width shall maintain a depth to width ratio of not greater than three to one (3:1); and lots which are more than three hundred feet (300') in width shall maintain a depth to width ratio of not greater than four to one (4:1). All proposed lots one hundred feet (100') or less in width shall be designed so that the angle of intersection of the side lot lines with the fronting road is between eighty five (85) and ninety five degrees (95°), for a distance of not less than fifty feet (50') from the point of intersection. Submerged lands are exempt from the requirements herein.**

- o The submerged, recreational, access, utility, and residential lots all had depth to width ratios of less than 4:1, well within the standard requirement.
- o The angle of intersections proposed fall between ±95° to ±113° but the lots will maintain angles of intersection adequate to accommodate 90° driveway entrances off of the proposed access road.

- **BCRC 12-622: Submerged Lands; Lands below the applicable natural or ordinary water mark, or the applicable artificial high water mark, of any lake, river, stream, channel or other body of public water shall not be counted in the calculations for determining the maximum density for a subdivision.**

- o The submerged lands have not been included in the calculations for determining the maximum density for the proposed subdivision.

- **BCRC 12-623(A) Services and Utilities; Where proposed lots are smaller than one acre in area, exclusive of any ingress or egress easements, all "urban services", as defined in section 12-821 of this title, shall be provided. Lots in**

conservation subdivisions shall be exempt from this requirement, provided all other requirements of this title are met.

- o The proposed lots are within a conservation land division, making them exempt from the requirement of BCRC 12-623(A) as all other requirements of this title have been met or have had a variation to their requirements proposed.
- **BCRC 12-623(B) Services and Utilities;** Lots to be served by a new public drinking water system: Division of environmental quality written approval of an engineering report prepared by an Idaho licensed professional engineer demonstrating that an adequate water supply is available to meet the estimated demand for water from the lots in the proposed subdivision.
  - o A community system is proposed in the form of a public water system. No documentation was provided.
- **BCRC 12-623(C) Services and Utilities;** Sewage disposal method for all building sites, as approved by the Panhandle health district and/or the state of Idaho, may be provided.
  - o A community leach field is proposed.
- **BCRC 12-623(D) Services and Utilities;** All proposed lots shall be designed by the applicant to provide a fire protection plan for the proposed lots to provide, at a minimum, an assessment of fire risk and plans to reduce the risk, and provisions for defensible space, where material capable of allowing a fire to spread unchecked will be treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur, and for at least one of the following from this section.
  - o The subdivision will be developed with a 10,000 gallon water storage tank accessed with a dry hydrant per BCRC 12-623(D)(4).
  - o The final plat will also contain the following defensible space note: "In areas adjacent to structures, fuel modification provisions apply for the purpose of establishing and maintaining defensible space. Based on the moderate urban-wildlife interface area rating on the subject property, a fuel modification distance of not less than 30 feet will be maintained. Lot owners will be responsible for modifying or removing non-fire resistive vegetation on each lot. Trees are allowed within the defensible space, provided the horizontal distance between crowns of adjacent trees and crowns of trees and structures, overhead electrical facilities or unmodified fuel is not less than 10 feet. Dead wood and litter shall be removed annually from trees. Where ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated defensible space, provided they do not form a means of transmitting fire from the native plant growth to any structure (International Urban-Wildland Interface Code, Section 603)."
- **BCRC 12-624(A) Roads and Access;** All new roads created for subdivisions shall be designated by unique road names, unless such roads are determined to be and are designed to be extensions of existing roads.

- o A unique road name shall be required for the proposed 22' wide access road that gives access to the recreation lot and five (5) residential lots. No unique road name is shown on the preliminary plat for this road.
- **BCRC 12-624(B) Roads and Access;** Road networks shall be designed and constructed to private road standards set forth in appendix A of this title, except as otherwise noted herein. Road networks shall be designed to provide for a continuous transportation system to adjacent properties, where topographical conditions warrant.
  - o See variation to BCRC 12-624(B) proposed and stated above.
- **BCRC 12-624(C) Roads and Access;** Legal access shall be provided to each proposed lot, which shall be developed for ingress and egress, providing for ready access meeting the standards in subsection B of this section.
  - o All proposed lots have ingress and egress access provided.
  - o See variation proposed for subsection B of this section above.
- **BCRC 12-624(D) Roads and Access;** All proposed lots less than five (5) acres gross shall have direct frontage on, and direct access to, a public right of way. Cluster lots less than five (5) acres gross in a conservation subdivision within the rural, agricultural/forestry and forestry districts are exempt from this requirement. Right of way offered for dedication in any zoning district shall be developed with a road constructed to the standards set forth in title 2 of this code. Such road may be maintained privately or by a public highway agency. Exceptions to the direct frontage and access requirements to allow for private frontage or interior roads may be granted in the commercial, industrial, or rural service center districts provided such access meets the applicable private road standards of this title.
  - o See variation proposed for BCRC 12-624(D) stated above.
- **BCRC 12-625 (A-B) Trails and Parks**
  - o Not applicable as no trails or parks are proposed but there is an open space lot of 2.89 acres proposed.
- **BCRC 12-626(A) Environmental Features;** The subdivision shall be designed around identified natural hazards (highly erosive soils on steep slopes, landslide areas, rock falls, areas of subsidence, floodplains) to protect building sites and roads from damage from such hazards.
  - o Per the application - Because a portion of the project is located within the mapped floodplain, all development within the mapped flood hazard area will be in accordance with the county's flood damage prevention ordinance.
- **BCRC 12-626(B) Environmental Features;** The subdivision shall meet the requirements of chapter 7, "Environmental Standards", of this title.
  - o A variation to the 40' wetland setback is proposed to allow for a zero wetland setback while all other environmental setbacks will be complied with, including the shoreline setback requirements.

- The site has been approved for shoreline improvements, including wetland fill (USACOE Permit NWW-2007-01218).
  - For BCRC 12-713 and 12-714, a ±60' wide vegetated, open space buffer with grasses, shrubs and trees is included between the recreation and residential lots and Lake Pend Oreille. This buffer will serve to preserve both the quality and quantity of Bonner County water resources (BCRC 12-701(A)), and to reduce erosion and sedimentation into waterways (BCRC 12-701(B)). Accordingly an impervious surface of 70% is proposed.
  - Per the application – Some site grading will be associated with road construction. A stormwater management and erosion control plan was submitted, confirming that on-site soils are suitable for stormwater treatment.
  - Per the application – The proposed open space includes White-tailed deer wintering area and riparian habitat and will remain as such.
  - Per the application – The property does not contain any mapped floodway but a portion of the project is located within the mapped floodplain and any development within the mapped flood hazard area will be in accordance with Bonner County's flood damage prevention ordinance.
- **BCRC 12-626(C)(1) Environmental Features; New lots or parcels on sites in the forestry, agricultural/forestry, rural and other zoning districts where all urban services are not available, shall maintain an average width (as measured parallel to the shoreline) of at least two hundred feet (200') for all portions of the lot or parcel within one hundred feet (100') of the shoreline. The total depth of the lot (as measured from the shoreline to the opposite end of the lot or parcel) must be deep enough to allow development to meet applicable vegetation conservation and building setback requirements per subchapter 7.1 in this title.**
  - The only waterfront lot is the proposed open space lot which will have no development allowed within it and has an average width of at least two hundred feet (200') for all portions of the lot within one hundred feet (100') of the shoreline.
- **BCRC 12-633(A) Standards and Guidelines for All Conservation Subdivisions; Uses: all principal and accessory uses authorized in the applicable zoning districts shall be allowed in the conservation subdivision. Uses not authorized by chapter 3 of this title will not be permitted in conservation subdivisions.**
  - Proposed uses include single family residences, boat storage and servicing, recreational uses and related open spaces. These are all permitted uses in chapter 3 of title 12.
- **BCRC 12-633(B) Standards and Guidelines for All Conservation Subdivisions; Development Standards: Development standards in chapter 4 of this title for the applicable zoning district shall apply to all lots in a conservation subdivision, except where otherwise noted in this chapter.**
  - The project is in accordance with these various standards, except for the noted proposed variations stated above.
- **BCRC 12-633(C) Standards and Guidelines for All Conservation Subdivisions; Design Standards: Conservation subdivisions are subject to subchapter 6.2 of this title, design standards, except where otherwise noted.**
  - The project has been designed in accordance with these standards, subject to the proposed variations noted above.
- **BCRC 12-633(D)(3) Standards and Guidelines for All Conservation Subdivisions; Lots may be smaller than the minimum sizes in subsections D1 [2.5 acres] and D2 [1 acre] of this section, provided water and sewage disposal provisions are provided within common areas via utility easements.**
  - Per the application – Proposed lots when density averaged, and with the density bonus, comply with the 2 acre lot size minimum when served by "urban water." The project will be served by a community sewer system and a public water system. The site will be accessed by a hard surfaced, 22' wide "low volume local" private road consisting of a 20' wide travelway and 22' wide roadway developed within a minimum 30' wide easement. The community drain field will be located on the utility lot as well.
- **BCRC 12-633(E) Standards and Guidelines for All Conservation Subdivisions; Suitable Land: Cluster lots are encouraged to be located on land most suitable for residential development.**
  - Per the application – Because a portion of the project is located within the mapped floodplain, all development within the mapped flood hazard area will be in accordance with the county's flood damage prevention ordinance.
- **BCRC 12-633(F) Standards and Guidelines for All Conservation Subdivisions; Further Subdivision of Cluster Lots: Cluster lots in a conservation subdivision may not be further subdivided except where in compliance with this title. However, notes on the final plat approved by the board may include other restrictions on future subdivision of the lots.**
  - Per the application – Further division of the proposed clustered lots is not anticipated.
- **BCRC 12-633(G) Standards and Guidelines for All Conservation Subdivisions; Wells. Sewage Disposal Facilities Within Common Open Space: Individual and/or common wells and sewage disposal facilities may be provided within designated common open space areas to allow for maximum efficiency of cluster lot design and minimize potential negative impacts to the environment. Applicable easements for the facilities shall be shown on the final plat.**
  - Per the application – The Proposed open space will remain riparian habitat and deer winter range along the lake shore and along the North Branch of Trestle Creek by maintaining and managing existing vegetation, forage and cover.
- **BCRC 12-633(H) Standards and Guidelines for All Conservation Subdivisions; Preservation of Common Open Space: Common open space shall be preserved**

as permanent open space, except where otherwise noted in this title, and subject to standards BCRC 12-633(H)(1-3).

- o The submitted open space management plan makes note of and includes the requirements of BCRC 12-633(H)(1-3).
- BCRC 12-633(I) Standards and Guidelines for All Conservation Subdivisions
  - o Not applicable
- BCRC 12-633(J) Standards and Guidelines for All Conservation Subdivisions
  - o Not applicable
- BCRC 12-633(K)(1) Standards and Guidelines for All Conservation Subdivisions; Buffering, Clustering: Clustered lots shall be accessed by interior road systems. To the maximum extent possible, cluster lots shall be located so that common open space provides a buffer between the cluster lots and adjacent properties and/or right of way. When this is not possible, the development shall be designed to provide at a minimum one of the following: (1) Cluster lots that abut surrounding properties or right of way shall be at least seventy five percent (75%) of the minimum lot size standard for the subject parcel.
  - o Per the application – Where urban water services are available, the minimum lot size is 2 acres (BCRC 12-412). The only lot that abuts adjoining property is the utility lot. This lot contains over two acres.
- BCRC 12-636(A) Standards for Conservation Subdivisions in Suburban, Recreation and Alpine Village Districts; Minimum Lot Size: There is no minimum lot size for cluster lots, provided the subdivision meets the density requirements specified in this title. However, cluster lots shall be sized sufficiently to meet applicable setbacks and other requirements in this title, unless otherwise noted herein.
  - o The proposed project meets these requirements, subject to the variations described above.
- BCRC 12-636(B) Standards for Conservation Subdivisions in Suburban, Recreation and Alpine Village Districts
  - o Not applicable
- BCRC 12-636(C) Standards for Conservation Subdivisions in Suburban, Recreation and Alpine Village Districts; Reduction In Setbacks: Front, side and/or rear yard setbacks may be reduced to accomplish design objectives for the development, provided other applicable standards in this title are met.
  - o All setbacks required in BCRC will be met except for the proposed variation for the rear yard setback to be reduced to have a zero setback where 5' is required and the proposed variation for the wetland setback to also be reduced to have a zero foot (0') setback where 40' is required.
- BCRC 12-636(D) Standards for Conservation Subdivisions in Suburban, Recreation and Alpine Village Districts; Multiple Dwelling Units: Multiple

dwelling units may be included on individual lots, provided the subdivision meets applicable density requirements and other requirements in this title.

- o One dwelling unit per residential lot is proposed with a total of five (5) dwelling units.
- BCRC 12-636(E) Standards for Conservation Subdivisions in Suburban, Recreation and Alpine Village Districts; Common Open Space: Applicants are encouraged to set aside at least twenty percent (20%) of the land as common open space, or recreational facilities for the residents and other requirements in this title.
  - o 2.89 acres or 11.84% of open common space for the gross acreage of 24.4 acres is proposed (32.33% for the net acreage of 8.94 net acres) and meets the required 10% of common space for planned unit developments.

#### **G. Comprehensive Plan Land Use Designation**

The comprehensive plan designation of **Resort Community** provides for urban-like densities for areas centered around the recreational areas developed for winter and water sports, golf and hiking, where urban services are provided.

The comprehensive plan designation of **Rural Residential** provides for residential development in areas where urban services are not available and slopes may vary up to 30%. These areas include hazard areas and critical wildlife habitats, where lower densities reduce potential impacts to resources and exposures to loss of property or lives. Small-scale agricultural uses and residential development are permitted.

- Property Rights: The issue of property rights is a "two-way street" and the property rights of the applicant, adjoining landowners and future generations shall be considered, as well as the short-term consequences of decisions.
  - o **Applicant:** The project has been designed consistent with planned unit development and conservation subdivision standards. As such, the project protects not only the applicant's rights, but also those of the public's.
- Population: Multi-generational, multi-economic diversity shall be encouraged within Bonner County.
  - o **Applicant:** The plat will result in five additional home sites. Accordingly, subdivision buildout could add to the county's population.
- School Facilities & Transportation: Full consideration shall be given to the county's ability to provide quality education to the current and future students of Bonner County.
  - o **Applicant:** Should the subdivision be occupied by school aged children, the Hope Elementary School is situated about 5 miles from the project.
- Economic Development: Bonner County shall encourage economic diversity for the financial health of the community and maintenance of its rural atmosphere.
  - o **Applicant:** The project will provide economic development associated with subdivision housing starts and boat storage.
- Land Use: Bonner County intends to balance and integrate its land use policies and proposed land use map with components of the comprehensive plan to



encourage the community to grow while retaining its rural character and protecting its unique natural resources.

- o **Applicant:** The project is consistent with land use objectives by complying with allowable densities and standards for the upland accommodations (pavilion) and boat storage and repair.
- **Natural Resources:** *Bonner County places a high value on its natural resources and amenities and desires to protect these features that make the county a unique place to live, work and play. The county recognizes that natural resources, such as pure water, clean air and diverse wildlife, are important to preserve and once lost, they may not be recovered. Bonner County will strive to manage its natural resources to attain the greatest long term public benefit.*
  - o **Applicant:** The project sets aside as open space riparian habitat and deer winter range.
- **Hazardous Areas:** *Bonner County desires to protect its community from the loss of lives and property and to reduce public and private financial losses due to flood, fire, mass wasting, avalanches and excessive slopes by setting standards for development within hazard areas and discouraging development in high hazard areas.*
  - o **Applicant:** Any development within the mapped flood hazard area will be in accordance with the county's flood damage prevention ordinance.
- **Public Services, Facilities & Utilities:** *Future development shall provide adequate services and should not adversely impact the services or utilities of present-day users.*
  - o **Applicant:** All public services are in place (power and highway access).
- **Transportation:** *Bonner County intends to provide a transportation system that is safe, uncongested, and well maintained.*
  - o **Applicant:** The proposed access within the subdivision will be built to Bonner County "low volume private road" standards with a paved surface versus gravel (20' wide travelway with 1' shoulders).
- **Recreation:** *Public and private recreational opportunities are recognized as a major county asset to be protected and encouraged.*
  - o **Applicant:** The project has been designed to provide lake front access via a proposed open space common area and community moorage. This amenity will provide recreational opportunities for lot owners and pavilion users.
- **Special Areas/Sites:** *Bonner County will attempt to protect special archeological and historical sites and unique visual and ecological features of the region.*
  - o **Applicant:** The site was developed with the former Idaho Country Resort, an RV and mobile home park.
- **Housing:** *Bonner County recognizes diverse housing needs are to be addressed to provide adequate shelter for all, regardless of age, income or physical abilities.*
  - o **Applicant:** The project will provide five additional housing units.
- **Community Design:** *Bonner County's goal is to maintain a variety of lifestyles and a rural character in the future development of Bonner County.*
  - o **Applicant:** With the allowed density bonus, proposed residential lots comply with the average density of 2 acres per lot when served by "urban water."

#### H. Stormwater plan

A stormwater management plan was required pursuant to BCRC 12-7.2. The submitted plan was prepared by Brandon Staglund, P.E. of James A. Sewell & Associates, LLC. The plan states that *with the proper implementation of the best management practices described in this report, the subject property is capable of supporting the proposed site development without substantial risk of soil erosion or sedimentation of surface waters. The site is capable of storing, treating, and conveying stormwater using the best management practices described in this report.*

The stormwater management plan was routed for review to Bonner County engineer Spencer Ferguson, P.E. who on December 02, 2020 stated, *"The stormwater, grading, and erosion control plan has been reviewed with respect to meeting the requirements of the Bonner County Revised Code Section 12-724, and has been found to be in compliance. The grading and stormwater management plan is therefore approved."*

#### I. Agency Review

The following agencies were routed for comment on **November 17, 2020**.

**Avista Utilities:** no response

**Bonner County Road & Bridge Department:** no response

**Burlington Northern Santa Fe Railroad:** no response

**Idaho Department of Environmental Quality:** standard environmental comment letter submitted.

**Idaho Department of Fish & Game:** Voiced concerns over the 70% impervious surface and 0' wetland setback proposed along with the rural development that has caused problems with wildlife in the past. IDFG also provided suggestions on the best practices to live with wildlife in rural areas with development.

**Idaho Department of Water Resources:** no response

**Idaho Transportation Department (Dist. 1):** no response

**Montana Rail Link:** MRL voiced concerns over 1) the property being purchased before securing the appropriate agreements with the railroad, 2) the requirement of each property owner being required to have their own, separate permit with the railroad and to provide the required insurance as MRL declines to issue private crossing permits to homeowners' associations, 3) crossing safety issues – poor line of sight, potential for overflow parking due to the number of boat slips, and potential increase in vehicle collisions, 4) the impact on neighbors from tree removal for better line of sight (loss of sound barrier), and 5) that no application has been made to negotiate an easement or remit for the roadway that crosses over the corner of MRL fee property parcel RP57N01E166476A. MRL also states that *"If a Road Authority is interested in pursuing a public roadway and public crossing at this location, MRL would be willing to consider such a proposal. MRL's denial of the existing private road crossing application stands."*

**Sam Owen Fire District:** The fire district requested that an additional 10,000 gallon water storage tank be provided on the utility lot in addition to the proposed water tank, noted that the 20' roadway along the residential lots is insufficient for fire vehicle turnaround, wanted to know what the snow management plan for the PUD was, if there will be access to the docks via a paved walkway and where it would be

located, if there will be fire hose boxes, and make note that if the parking is not adequate that vehicles could park alongside the road and be in the way of the fire vehicles attempting to access the lots.

**U.S. Army Corps of Engineers:** no response

**U.S. Fish & Wildlife Service:** no response

**U.S. Forest Service:** no response

**Idaho Department of Lands (Sandpoint & Navigable Waters):** no response

#### **J. Public Notice & Comments**

Property owners within 300' of the subject properties were notified for comment on **November 17, 2020**. No comments were received at the time of the completion of this staff report.

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#### **Findings of Fact**

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1. Planned Unit Developments (PUDs) are permitted in all districts.
2. The subject properties are located within the Recreation district and have a comprehensive land use designation of Resort Community and Rural Residential.
3. The site was developed with the former Idaho Country Resort, an RV and mobile home park.
4. The residential lots will range in size between 13,788 – 18,195 SF, the access lot will be 1.60 acres, the recreational lot will be 18,958 SF, the utility lot will be 2.12 acres, the open space lot will be 2.89 acres, and the submerged lot will be 15.42 acres.
5. Access is provided off Highway 200 across an established railroad crossing to a private road.
6. Single family dwellings, boat storage and services, and community docks/marinas and upland accommodations are permitted within the Recreation district both outright and with a Conditional Use Permit (CUP).
7. The proposal involves reserving 11.84% of common area as open space where 10% is required.
8. No phasing of the development is proposed as the development can be completed within the allowed four (4) years (BCRC 12-258(C)) from the approval date.
9. The travelways and roads proposed are suitable and adequate to allow for the anticipated traffic and will not generate traffic in amounts that will overload the street network outside the PUD (State Highway 200).
10. The development will include homeowner's association and/or corporate ownership in addition to covenants, conditions and restrictions that are sufficient to enforce development requirements and responsibilities of the homeowner's association and/or corporate ownership.
11. The site will be served by a community leach field, a public water system, Sam Owen Fire District, and Avista Utilities.
12. BCRC 12-623(C) is no longer required per Bonner County Ordinance #607 (Instrument #961425).
13. The site will be developed with five (5) residential lots; one (1) utility lot for the community leach field, boat storage and repair services; one (1) recreational lot for the pavilion providing upland accommodations for community dock users; one (1) open space lot for the common area; one (1) access lot; and one (1) submerged lot.
14. A density bonus based on the additional open space (10% is required but 11.84% is provided) is permitted to allow for a total of five (5) residential units.
15. Three (3) 10,000 SF boat storage buildings are allowed as the project includes three (3) properties, allowing one (1) 10,000 SF boat storage building on each property. All three (3) boat storage buildings will be clustered on the single utility lot to provide greater efficiency and to protect the natural bodies of water on site and will not exceed a combined total of 30,000 SF.
16. The lot size minimum in the Recreation district where urban water is available is 2 acres. PUDs allow for density average lot sizes. Including the allowable density bonus, the project includes an average density of one (1) lot per 2 acres.
17. All setbacks will be maintained except where variations occur which include a zero foot (0') setback for the rear yard where 5' is required and a zero foot (0') setback for wetlands where 40' is required.
18. The users of the dock facilities will own property at The Idaho Club and will access the facility primarily by boat, making upland parking not applicable.
19. As most dock users will access the pavilion by boat, the standard assembly building parking requirement of 50 spaces for a 5,000 SF pavilion is not applicable, but instead there will be 35 spaces provided, with 7 of those spaces being further than 500' from the pavilion.
20. Angles of intersection of  $\pm 95^\circ$  to  $\pm 113^\circ$  and that are adequate to accommodate 90° driveway entrances off of the proposed access road will be permitted.
21. In lieu of the standard 28' wide "standard local" paved public road, North Park Road will be improved to "low volume local" road standards that will consist of a 20' wide travelway and a 22' wide paved roadway developed within a minimum 30' wide easement where located on the applicant's property. Each lot will directly front on, and will directly access the private easement.

- 22.A turnout on the east and west side the railroad but adjacent to and outside of the railroad right-of-way, will be constructed to a minimum width of 26' and a minimum length of 40'.
- 23.70% impervious surface within the shore land areas and for lot coverage will be permitted where 35% was allowed.
- 24.A stormwater management plan was completed for this project and approved by Bonner County Engineer Spencer Ferguson, P.E. on December 02, 2020.
- 25.A management plan for the oversight of the open space area was submitted.
- 26.The fire hazard rating is moderate.
- 27.Per the trip generation letter, the AM peak vehicles per hour is 2.9 and the PM peak vehicles per hour is 3.6.

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**Conclusions of Law:**

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Based upon the findings of fact, the following conclusions of law are adopted:

Conclusion 1

The proposed conditional use permit is in accord with the Bonner County comprehensive plan.

- |                       |                         |                                    |
|-----------------------|-------------------------|------------------------------------|
| •Property Rights      | •Population             | •School Facilities, Transportation |
| •Economic Development | •Land Use               | •Natural Resources                 |
| •Hazardous Areas      | •Public Services        | •Transportation                    |
| •Recreation           | •Special Areas or Sites | •Housing                           |
| •Community Design     | •Implementation         |                                    |

Conclusion 2

This proposal was reviewed for compliance with the criteria and standards set forth at BCRC Chapter 4, Title 12, Subchapter 2.2, environmental standards of Chapter 7, Title 12, and storm water management criteria and standards set forth in Chapter 7, Title 12, Bonner County Revised Code.

Conclusion 3

The proposed use **will not** create a hazard or **will not** be dangerous to persons on or adjacent to the property.

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**Conditions of Approval:**

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**Standard continuing permit conditions. To be met for the life of the use:**

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- A-1 The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2 The Conditional Use Permit shall not supersede deed restrictions.
- A-3 All setbacks per the approved planned unit development shall be met.
- A-4 The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.
- A-5 The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved and shall abide by the approved stormwater plan prior to the final inspection.
- A-6 Prior to the final plat recording of the proposed preliminary plat, per BCRC 12-623(B)(3) State of Idaho written approval of an engineering report prepared by an Idaho licensed professional engineer demonstrating that an adequate water supply is available to meet the estimated demand for water from the lots in the proposed subdivision shall be submitted to the Bonner County Planning Department for review and approval.
- A-7 The following language shall be included on the final plat prior to recording; *"In areas adjacent to structures, fuel modification provisions apply for the purpose of establishing and maintaining defensible space. Based on the moderate urban-wildlife interface area rating on the subject property, a fuel modification distance of not less than 30 feet will be maintained. Lot owners will be responsible for modifying or removing non-fire resistive vegetation on each lot. Trees are allowed within the defensible space, provided the horizontal distance between crowns of adjacent trees and crowns of trees and structures, overhead electrical facilities or unmodified fuel is not less than 10 feet. Deed wood and litter shall be removed annually from trees. Where ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated defensible space, provided they do not form a means of transmitting fire from the native plant growth to any structure (International Urban-Wildland Interface Code, Section 603)."*
- A-8 Any development within the floodplain shall be developed in accordance with the Bonner County flood damage prevention ordinance.
- A-9 Per BCRC 12-624(A), a unique road name for the proposed 22' wide access road shall be provided on the final plat.

~~A-10 To maintain the protection of the wetland and wildlife habitats of the open space lot, along with Lake Pend Oreille and Trestle Creek, the following note shall be shown on the final plat and shall also be included in the Covenants, Conditions and Restrictions document; All roofing materials shall be required to be made of materials that limit the amount of chemical runoff into the open space lot.~~

**Conditions to be met prior to issuance of the permit:**

- B-1** Design plans fulfilling requirements found in BCRC 12-4.5 et seq. shall be submitted to the Bonner County Planning Department for review and approval.
- B-2** Landscaping and screening plans fulfilling requirements found in BCRC 12-4.6 et seq. shall be submitted to the Bonner County Planning Department for review and approval.
- B-3** Boat storage plans fulfilling requirements B through I of BCRC 12-486 shall be submitted to the Bonner County Planning Department for review and approval.

**VARIANCES**

**CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE:** The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings.

**File V0030-20 – Waterfront Setback Variance –Mary and Joseph Kelly** are requesting an 18-foot waterfront setback, where 40-feet is required to construct a second story addition and replace the roof on an existing boathouse. The property is zoned Recreation. The project is located off Lower Rock Harbor in Section 27, Township 56 North, Range 1 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

**STAFF PRESENTATION:** Senior Planner Amanda DeLima presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

**APPLICANT PRESENTATION:** Applicants Mary and Joseph Kelly stated they wanted this variance to try to fix a boathouse that is in dire disrepair.

**PUBLIC/AGENCY TESTIMONY:** None

**APPLICANT REBUTTAL:** None

**COMMISSION DELIBERATION:** The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

**MOTION TO APPROVE:** Commissioner Linscott moved to approve this project FILE V0030-20, an 18-foot waterfront setback, where 40-feet is required to construct a second story addition and replace the roof on an existing boathouse, finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Linscott further moved to adopt the following findings of fact and conclusions of law as written. The action that could be taken to obtain the variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Glasoe seconded the motion.

**VOTED** upon and the Chair declared the motion carried, unanimously.

**Background:**

**A. Site data:**

- Residential
- Platted
- Size: 0.81 acres
- Zone: Recreation
- Land Use: Resort Community (<=2.5 AC)

**B. Access:**

- The site is accessed by Lower Rock Harbor Road, a private gravel road.

**C. Environmental factors:**

- Site does contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does contain frontage on Lake Pend Oreille.
- Jason Johnson, CFM commented on 10.27.2020: Parcel is within SFHA Zone D, per FIRM Panel 16017C0975E, Effective Date 11/18/2009. No further floodplain review is required on this proposal.

**D. Services:**

- Water: Lake Water
- Sewage: Individual Septic
- Fire: Selkirk Fire District
- Power: Northern Lights
- School District: #84

**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community (<=2.5 AC)	Recreation	Residential
North	Resort Community (<=2.5 AC)	Recreation	Residential

East	Resort Community (<=2.5 AC)	Recreation	Residential
South	n/a	n/a	Lake
West	Resort Community (<=2.5 AC)	Recreation	Residential

**F. Standards review**

BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:

- (a) **Conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.**

**Staff:** The applicant responded that they did not build the boat house or have any control over the location it was placed. Additionally, the applicant stated that the structure has a solid foundation and the location would remain unchanged, though the structure was in disrepair and a new roof is needed.

Assessor records show adjoining lots do not feature boathouses within the 40-foot setback. The applicants inherited this structure and do not have control over the existing location or condition of the roof.

- (b) **Special conditions and circumstances do not result from the actions of the applicant.**

**Staff:** Public records show the applicants obtained the property on September 4, 2018 per instrument number 927263. Assessor's records indicate that the boat house was built in the 50's. The location of the existing structure does not result from the actions of the applicant. A variance is the only avenue to repair the structure and modify the roof type to accommodate snow and stormwater.

- (c) **The granting of the variance is not in conflict with the public interest in that it will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot.**

**Staff:** There is no indication that the public health, safety, or welfare will be negatively impacted by this proposal as no public comments or agency comments were received. The structure is existing and this proposal will not be materially injurious to properties or improvements in the vicinity. Addressing run off with a modern roof will only assist in protecting the lake due to the close proximity to the waterfront.

**G. Stormwater plan**

A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional impervious surface, as defined.

**H. Agency Review**

The application was routed to agencies for comment on November 17, 2020.

Panhandle Health District	Dept. of Water Resources
Army Corps (Coeur d'Alene)	Selkirk Fire District
Northern Lights Utility Company	Fish and Wildlife Service
School District #84	Bonner County Schools - Transportation
Dept. of Fish and Game	Dept. of Lands (Sandpoint)
Dept. of Env. Quality	Dept. of Lands, Nav. Waters
Bonner County Road Department	U.S. Fish & Wildlife Service

**The following agencies commented:**

PHD commented No Comment on December 4, 2020

**I. Public Notice & Comments**

Two public comments were received.

**Findings of Fact**

1. Public record shows the applicants obtained the property on September 4, 2018 per instrument number 927263.
2. According to Assessor's records the boat house was built in the 1959.
3. The parcel is located within Special Flood Hazard Zone D.
4. The lot does contain mapped slopes of 30% or greater.
5. The second story addition and new roof line will not project farther into the waterfront setback than the original structure. The variance request is to allow for a bulk second story increase into the existing setback.
6. The parcel is described as Lots 4 & 5, Block 1 of Rock Harbor Subdivision according to the Book 2 of Plats, Page 40, records of Bonner County, Idaho.

**Conclusions of Law:**

**Based upon the findings of fact, the following conclusions of law are adopted:**

Conclusion 1

Conditions apply to the property that **do not** apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.

Conclusion 2

Special conditions and circumstances **do not** result from the actions of the applicant.

Conclusion 3

The granting of the variance is **not** in conflict with the public interest in that it **will not** be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

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**Conditions of approval:**

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**Standard permit conditions:**

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**A-1** The submitted Building Location Permit must be approved and an initial inspection must be conducted prior to commencing any construction on the structure.

**CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE:** The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings.

**File V0029-20 – Street and Waterfront Setback Variance – Kathy Amistoso** is requesting an 8’6” street set back where 40’ is required and a 10’ waterfront set back where 40’ is required. The variance would bring the existing structure into compliance and allow the addition of a room over the garage. The property is zoned Recreation. The project is located off Granite Bay Road in Section 16, Township 61 North, Range 4 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

**STAFF PRESENTATION:** Assistant Director Josh Pilch presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

**APPLICANT PRESENTATION:** Lucas Dahlin stated the garage is currently damaged and instead of rebuilding it the applicant would like to change the plans to add a second story.

**PUBLIC/AGENCY TESTIMONY:** None

**APPLICANT REBUTTAL:** None

**COMMISSION DELIBERATION:** The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

**MOTION TO APPROVE:** Commissioner Reeve moved to approve this project FILE V0029-20 requesting an 8’6” street setback, where 40’ is required and a 10’ waterfront setback, where 40’ is required. finding that it is in accord with the Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Reeve further moved to adopt the following findings of fact and conclusions of law as written. The action that could be taken to obtain the variance is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Frankenbach seconded the motion.

**VOTED** upon and the Chair declared the motion carried, unanimously.

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**Background:**

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**A. Site data:**

- Lake front home
- Platted lot, Granite Creek Subdivision Lot 6
- Size: 0.15 AC
- Zone: Recreation
- Land Use: Resort Community

**B. Access:**

The project is located off South Granite Bay Road in Section 16, Township 61 North, Range 4 West, Boise-Meridian.

**C. Environmental factors:**

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does contain frontage on Priest lake.
- Per Jason Johnson CFM, 12.7.2020: Parcel is a combination of SFHA Zone D and Zone AE, per FIRM Panel 16017C0150F, Effective Date 7/7/2014. A variance, by itself, does not approve development, as defined in BCRC Title 14. The development proposed under this variance will require a BLP, at which point, another flood review will occur. Based on the submitted site plan, the development in question under this variance would occur within SFHA Zone D. No further floodplain review is required on this proposal.

**D. Services:**

- Water: Private well
- Sewage: Granite Reader Sewer District
- Fire: West Priest Lake Fire
- Power: Avista power
- School District: Bonner School #83

**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Resort Community	Recreation	Single family home
North	Resort Community	Recreation	Boat Ramp
East	Resort Community	Recreation	Priest lake
South	Resort Community	Recreation	Single family home
West	Resort Community	Recreation	Single family home

**F. Standards review**

BCRC 12-234 specifies that "Staff, the commission and/or board shall review the particular facts and circumstances of each proposal submitted and shall find adequate evidence showing that:

- (d) **Conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.**

**Staff:** Lot 6 of Stevens Granite Creek Subdivision is one of the smallest lots in the subdivision and is additionally encumbered by the shoreline set backs

- (e) **Special conditions and circumstances do not result from the actions of the applicant.**

**Staff:** The applicant purchased the property in 2009 as it is today and played no part in creating the subdivision or building the house.

- (f) **The granting of the variance is not in conflict with the public interest in that it will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot.**

**Staff:** Adding a second story above the garage will not impact public health, safety, or welfare.

**G. Stormwater plan**

A stormwater management plan was not required, pursuant to BCRC 12-720.3(k) because the proposal does not result in the creation of additional impervious surface, as defined.

**H. Agency Review**

The application was routed to agencies for comment on Nov 17th, 2020.

Granite-reader water and sewer	Idaho Department of Water Resources
West Priest Lake Fire District	U.S. Fish and Wildlife Service
Avista utilities	Idaho Department of Lands (Sandpoint)
Applicable School District #83	Idaho Department of Environmental Quality
Bonner County Schools – Transportation	Idaho Transportation Department

**The following agencies commented:**

No agency comments were received.

**I. Public Notice & Comments**

No public comments were received.

**Findings of Fact**

- 1- The owner purchased the Single Family Dwelling in 2009, instrument # 776649
  - 2. The lot is .14 acres in size as recorded in Stevens Granite Creek Subdivision, according to the plat there of, recorded in Book 1 of plats, Page 169, records of Bonner County, Idaho
  - 3. The lot is affected by a 40-foot shoreline setback and a 25-foot street setback.
  - 4. Per assessor's records the structure was built in 1967.
  - 5. The requested second story addition would only add a bulk increase to the street setback.
  - 6. The second story addition is intended to provide additional sleeping quarters according to the applicant.

**Conclusions of Law:**

**Based upon the findings of fact, the following conclusions of law are adopted:**

Conclusion 1

Conditions apply to the property that **do not** apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.

Conclusion 2

Special conditions and circumstances **do not** result from the actions of the applicant.

Conclusion 3

The granting of the variance **is not** in conflict with the public interest in that it **will not** be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity of the subject parcel or lot. (Ord. 559, 1-4-2017)

**Conditions of approval:**

**Standard permit conditions:**

**A-1** Only the development highlighted on the site plan has been reviewed for variance standards. All other development shown must comply with Bonner County Revised Code.

**CONDITIONAL USE PERMIT**

**CALL FOR VISUAL, HEARING OR OTHER IMPAIRMENT REQUIRING ASSISTANCE:** The Chair asked whether anyone needed special assistance to hear, see or participate in these proceedings.

**File CUP0005-20 – Conditional Use Permit - Priest Lake Storage – Mike Belles** is seeking approval to construct two mini-storage buildings totaling 6,250 sq ft on tax lot 21, a vacant 20,037 sq ft parcel in the Rural Service Center Zoning District. The project is located off Highway 57 in Section 25, Township 60 North, Range 5 West, Boise-Meridian.

**CONFLICT OF INTEREST/DISCLOSURE DECLARATIONS:** The Chair requested the Commissioners declare any conflicts of interest or disclosures. The Chair noted that there were no disclosures or conflicts.

**STAFF PRESENTATION:** Assistant Director Josh Pilch presented a PowerPoint summary of the project and previously circulated staff report, concluding this project is consistent with Bonner County Revised Code.

**APPLICANT PRESENTATION:** Project Representative Jeremy Grimm presented a PowerPoint summary of the project going over specific details. He clarified easement access as well as the four lot parcel details and recent lot line adjustments. Landowner Mike Belles assisted in answering questions from the Commissioners.

**PUBLIC/AGENCY TESTIMONY:** None

**APPLICANT REBUTTAL:** None

**COMMISSION DELIBERATION:** The Chair closed the hearing to public testimony. The Commission discussed Findings and Conclusions.

**MOTION TO APPROVE:** Commissioner Reeve moved to approve this project FILE CUP0005-20 Priest Lake Storage LLC to construct two mini-storage buildings finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law, and based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. Commissioner Reeve further moved to adopt the following findings of fact and conclusions of law as written. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property. Commissioner Davis seconded the motion.

**VOTED** upon and the Chair declared the motion carried, unanimously.

**Background:**

**A . Site data:**

- Mini Storage facility
- Unplatted
- Size: 0.46
- Zone: Rural Service center
- Land Use: Neighborhood commercial

**B. Access:**

Head north on Highway 57 from Priest River. Continue approximately 1,500 feet past the Priest Lake Golf & Country Club. Destination is on the left along Highway 57.

**C. Environmental factors:**

- Site does not contain mapped slopes. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not contain a river/stream/frontage on lake
- Jason Johnson, 12.8.2020: Parcel is within SFHA Zone D, per FIRM Panel 16017C0200F, Effective Date 7/7/2014. No further floodplain review is required on this proposal.

**D. Services:**

- Water: Outlet Bay Water & Sewer
- Sewage: Outlet Bay Water & Sewer
- Fire: West Priest Lake Fire
- Power: Northern Lights
- School District: #83

**E. Comprehensive Plan, Zoning and Current Land Use**

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Neighborhood commercial	Rural Service Center	Vacant
North	Neighborhood commercial	Rural Service Center	Existing structure with Spa and Daycare
East	Neighborhood commercial	Rural Service Center	Single Family Residential abutting Highway 57
South	Neighborhood commercial	Rural Service Center	Mini Storage
West	Neighborhood commercial	Rural Service Center	Personal Shop, 60' x 140'

**F. Standards review**

BCRC 12-223 specifies that the Commission shall review the particular facts and circumstances of each proposal. To grant a conditional use permit, the Commission must find there is adequate evidence showing the proposal is in accord with the general and specific objectives of the comprehensive plan and Title 12 and the



proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property

- BCRC 12-22, conditional use permit, application and standards
  - The application was submitted and found to be complete
- BCRC 12- 327 Rural Service Center District
  - The rural service center district is established to promote the development of local commercial services in small communities to meet the needs of rural residents as well as limited tourist commercial services and limited light industrial uses consistent with the maintenance of the rural character of the area.

- BCRC 12-4.2, Performance standards for all uses

No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious or otherwise objectionable conditions which could adversely affect the surrounding areas or adjoining premises, except that any use permitted by this title may be undertaken and maintained if acceptable measures and safeguards to reduce dangerous and objectionable conditions to acceptable limits.

- BCRC 12-4.3, Parking standards  
The purpose of this subchapter is to provide adequate parking spaces for uses.(Ord. 501, 11-18-2008) Staff finds that there is adequate parking for this mini storage.
- BCRC 12-4.4, Sign standards  
The sign is existing and meets the general standards.
- BCRC 12-453, Design standards  
The standards in section 12-453 of this chapter shall apply to all new development in the commercial, industrial where commercial uses and services are proposed, and rural service center districts and all other commercial, multi-family, public and industrial development in other zoning districts unless otherwise noted. (Ord. 512, 1-6-2010) Staff finds that there is adequate space for sidewalk or a pathway.
- BCRC 12-460, Landscaping and screening standards  
Landscaping plan required  
Please see condition A-9
- BCRC 12-486, Standards for Mini Storage.  
The applicant, as detailed in the site plan is asking for a 70' setback from the state highway where 100' is required.
- BCRC 12-7.2, Grading, stormwater management and erosion control  
The applicant has provided a stormwater plan for the site.

Please see Condition A-5

**G. Comprehensive Plan Land Use Designation**

The Neighborhood Commercial area is designed to provide light commercial uses to serve the needs of the rural communities and tourist trade without adversely affecting residential neighborhoods. Urban services and primary transportation systems, such as the state highways or major/minor collector roads are required.

**H. Stormwater plan**

Stormwater management plan was required pursuant to BCRC 12-7.2. A plan by Whiskey Rock Planning + Consulting was submitted.

**I. Agency Review**

Bonner County Schools – Transportation	Idaho Department of Water Resources
Idaho Department of Fish and Game	Bonner County Road Department
Idaho Department of Environmental Quality	U.S. Fish and Wildlife Service
Idaho Department of Lands (Sandpoint)	

The following agency comments were received:

DEQ – No comment

No other agencies responded.

**J. Public Notice & Comments:**

No public comments were received

**Findings of Fact**

1. The property fronts Highway 57 in Priest Lake.
2. The proposed use is well aligned with the development and use of adjoining parcels.
3. The site is flat, with compacted gravel covering the surface.
4. There are no water features on the property.
5. The parcel is designated 'Rural Service Center'.
6. The site does not feature slopes greater than 15% per USGS.
7. The site is adequately served with sewer and water services.

**Conclusions of Law:**

**Based upon the findings of fact, the following conclusions of law are adopted:**

Conclusion 1

The proposed conditional use permit is in accord with the Bonner County comprehensive plan.

Land use:

The Neighborhood Commercial area is designed to provide light commercial uses to serve the needs of the rural communities and tourist trade without adversely affecting residential neighborhoods. Urban services and primary transportation systems, such as the state highways or major/minor collector roads are required.

Conclusion 2

This proposal was reviewed for compliance with the criteria and standards set forth in Bonner County Revised Code, Title 12.

Conclusion 3

The proposed use **will not** create a hazard or will not be dangerous to persons on or adjacent to the property.

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**Conditions of approval:**

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**Standard continuing permit conditions. To be met for the life of the use:**

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- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** All site plan setbacks shall be met.
- A-4** The Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Planning and Zoning Commission may consider such request for extension at any public hearing. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.
- A-5** The applicant shall install prior to ground disturbing activities all temporary erosion control measures as designed and approved. The applicant shall install upon completing ground disturbing activities and shall maintain thereafter all permanent erosion control and stormwater management measures as designed and approved.

- A-6** All signage shall conform to standards set forth in BCRC 12-4.4
- A-7** All lighting shall conform to standards set forth in BCRC 12-453(F)
- A-8** All solid waste collection areas shall conform to standards set forth in BCRC 12-453(K).
- A-9** A landscaping plan per BCRC 12-486B, shall be submitted to the Planning Department at the time of building location permit.

**COMMISSIONER & STAFF UPDATES:**

**ACTION ITEM:** Give a date to the sub-area committees of March 31, 2021 for them to turn in their proposed plan.

Commissioner Linscott moved to set a date of March 31, 2021 for the sub-area committees to turn in their proposed plans. Commissioner Reeve seconded the motion.

**VOTED** upon and the Chair declared the motion carried, unanimously.

Discussion about the progress of the sub-area committees.  
Reviewed current workload.  
Goal to only work on one text amendment next year. Talk about upcoming meeting.

At 8:51 p.m., the Chair declared the hearing adjourned until January 7, 2021.

Respectfully submitted,

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Milton Ollerton, Planning Director

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The above Minutes are hereby approved this 7th day of January, 2021.

Bonner County Planning and Zoning Commission

  
Brian Bailey, Chair